



U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]  
EAC 04 197 50870

Office: VERMONT SERVICE CENTER

Date: MAY 21 2008

IN RE:

Petitioner:

Beneficiary:

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

2 Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed with a separate finding of fraud and willful misrepresentation of a material fact.

The petitioner seeks classification as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as the pastor and overseer of the Church of the Living God Holy Ghost Intercessory Ministries, Philadelphia, Pennsylvania. The director determined that the petitioner had not established that she had the requisite two years of continuous work experience as a pastor and overseer immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established that the church had made a qualifying job offer to the petitioner, or the church's ability to meet the terms of such a job offer.

On appeal, the petitioner submits a personal statement and additional exhibits.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination . . . ; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The first issue under consideration concerns the petitioner's past work. The regulation at 8 C.F.R. § 204.5(m)(1) indicates that the "religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two-year period immediately preceding the filing of the petition." 8 C.F.R. § 204.5(m)(3)(ii)(A) requires the petitioner to demonstrate that, immediately prior to the filing of the petition, the alien has the required two years of experience in the religious vocation, professional religious work, or other religious work. The petition was filed on June 21, 2004. Therefore, the petitioner must establish that she was continuously performing the duties of a pastor and overseer throughout the two years immediately prior to that date.

On the Form I-360 petition, the petitioner stated her "Date of Arrival" in the United States as December 14, 2000. A partial copy of her passport confirms this entry date and shows no evidence of any prior entry.

In a résumé submitted with the initial filing, the petitioner stated:



The petitioner also submitted copies of various church programs, the earliest of which is dated February 23, 2003. One document bears the title “2<sup>nd</sup> Anniversary Program” and the date March 30, 2003. If the petitioner had founded the Church of the Living God in March 2000, as she has claimed, then March 2003 would have been the church’s third, not second, anniversary.

The undated “Souvenir Program” from the “4<sup>th</sup> Anniversary Celebration” contains the following narrative:

Brief History  
Church of the Living God

. . . The Church’s Pastor and Overseer . . . [the petitioner] departed from Liberia in 2000. . .

[The petitioner] decided to reach out to as many women as possible. As [a] result of this evangelistic move, [a] few women responded to the call thereby giving birth to the Holy Ghost Intercessory Ministry in March 2002.

The women met every Saturday at 4 [REDACTED] e., Philadelphia PA.<sup>1</sup> . . . In [a] few months, the membership increased rapidly. Realizing that most attendants were in search of a home church, the need for establishing a church in order to keep the flocks together became eminent.

Consequently, in March 2002, the intercessory ministry was transformed into a church, which was established under the name The Church of the Living God “Holy Ghost Intercessory Ministry.”

The above narrative is inconsistent, stating that the ministry was formed in March 2002, and became a church after a “few months,” also in March 2002. That inaccuracy aside, this church program does not show a 2000 establishment date for the Church of the Living God.

The director, in denying the petition, stated:

In your response of September 16, 2005, you submitted evidence in the form of a statement from a Bishop . . . indicating that the beneficiary has experience in the proffered position from January of 2000 through the date of filing. You also submitted a letter from the beneficiary indicating she had experience in the proffered position from March of 2000 through the date of filing. . . . [T]he beneficiary arrived in the United States on December 14, 2000. . . . This evidence is in direct contravention to the evidence of record, specifically the claims of both the beneficiary and the Bishop in attempting to verify the beneficiary’s qualifying time period of employment. This obviously fraudulent claim also calls into question the remainder of the evidence presented on behalf of the beneficiary.

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<sup>1</sup> This was the address of the Church of the Living God at the time the petitioner filed the petition.

The record does not establish that the beneficiary has the required two years of experience in the religious occupation.

On appeal, counsel states: “the Church, prior to filing, paid [the petitioner’s] expenses and gave her a stipend. [The petitioner] helped to found the Church upon her arrival in the U.S., helped to establish it as a non profit entity, helped to buy the Church building and was eventually paid as an employee, as demonstrated by attached pay stubs.” As we have already observed, the pay stubs show that the church “eventually” began paying the petitioner more than a year after the petition’s filing date. The record is devoid of evidence that the church paid her a stipend before November 2005.

The petitioner did, apparently, reside on church property beginning sometime in 2002. The provision of housing in lieu of a cash salary can be consistent with employment. *See Matter of Hall*, 18 I&N Dec. 203, 205 (BIA 1982). But this does not imply that the Church of the Living God met all of the petitioner’s material needs or provided her with full-time work. The petitioner has claimed additional employment at Mt. Calvary Temple of the Jesus Christ Ministries, overlapping with her claimed work at the Church of the Living God.

With regard to the discrepancy between the petitioner’s documented December 2000 arrival in the United States and the claimed March 2000 founding of the Church of the Living God, counsel attempts to dismiss the director’s concerns by stating: “There appears to be a typo on her resume stating that from March, 2000, [the petitioner] served at the Church of the Living God in Phila[delphia]. There is no dispute that [the petitioner] arrived in the U.S. in December of 2000.” This explanation might be plausible if the petitioner’s résumé were the only source for the March 2000 date; however, such is not the case. [REDACTED] said, in January 2004, that the petitioner “has been the pastor/overseer of the Church of the Living God in Philadelphia for four years.”

The record is rife with contradictions as to when the petitioner founded the Church of the Living God. Napoleon Gborplay stated that the petitioner “helped to found our Church in the year 2000.” The “Souvenir Program” states that the Church of the Living God was established as a church in “March 2002.” Pennsylvania state records indicate that the church was incorporated in January 2003. [REDACTED] stated that Mt. Calvary Temple of the Jesus Christ Ministries, Inc., began supporting the petitioner in March 2001, and that “[t]his support stopped only after she established her own ministry.”

We note that every document listing a 2000 establishment date is a personal statement by the petitioner or a witness, created for the express purpose of supporting this petition. Previous applications filed by the petitioner herself place the beneficiary in Liberia until December 2000.

In a letter dated October 1, 2001, [REDACTED] of [REDACTED], Philadelphia, attested to the following assertions:

That [the petitioner] is my sister

That [the petitioner] arrived in the U.S.A. through J.F.K. International Airport December 14, 2000.

That upon her arrival, she took residence at my above mentioned address and she is hosted by me up to this writing.

Other documents in the petitioner's alien file, dated April 2001 and March 2002, show the petitioner's then-current address as [REDACTED] consistent with [REDACTED]'s statement. Documentation from October 2002 through the filing date places the petitioner at [REDACTED], which is adjacent to the church's prior location.

The contradictory claims discussed above raise significant questions of credibility. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

Raising further such questions are additional contradictory claims that the petitioner made, in another context, to what was then the Immigration and Naturalization Service. In immigration documents filed on January 23, 2001, the petitioner stated that she had a spouse named "[REDACTED]," a Lebanese man who she had married in 1986. The petitioner also stated that she had two natural children— "[REDACTED]" and "[REDACTED]" — and five adopted children.

On the October 2002 document, under "Marital Status," the petitioner originally checked a box marked "Single" but obscured this mark with correction fluid. Similarly, under "Information about your spouse," the petitioner originally repeatedly wrote "N/A" (for "not applicable") but then obscured these markings and added information about "[REDACTED]" and the aforementioned seven children. (The petitioner had originally included the name "[REDACTED]" in the list of children, but then deleted that name.)

On September 5, 2003, the petitioner signed an immigration form indicating that she had three children. The form had room for the names of up to seven children, so space considerations did not force the petitioner to omit any names. Under "Marital Status," the petitioner checked two boxes: "Single" and "Divorced." Under "Information about your spouse," the petitioner wrote the name "[REDACTED]" The petitioner left blank the section for information about any former spouse. In two different places on the 2003 form, the petitioner stated that she entered the United States on "June 14 – 2000."

On a form she signed on September 30, 2004, the petitioner reverted to the December 14, 2000 entry date. Regarding her family, the petitioner provided the following responses:

Marital Status

Single       Married       Divorce       Widowed

\* \* \*

Provide the following information about your spouse (if married).

Last Name of Spouse: NONE      First Name: — N/A      Middle Name: — N/A

\* \* \*

Name of Prior Husbands/Wives: NONE      Date(s) Marriage(s) Ended (mm/dd/yy): — N/A  
\* \* \*

List the names, ages and current residence of children (if any).

Name: NONE      Date of Birth: — N/A      Residence: — N/A

With the above answers, the petitioner did not merely indicate that she was unmarried *at the time*. Rather, the petitioner specifically, repeatedly and unambiguously stated that she had *never* been married, and that she had *no children*.

On the Form I-360 petition now on appeal, the petitioner identified her marital status as “Divorced.” The Form I-360 allowed space for the petitioner to name up to six children. She named only two, “” and “”

The AAO is in possession of a copy of a “Bill of Divorcement” dissolving the marriage between the petitioner and  on March 28, 2003. A copy of this document was submitted in furtherance of another immigrant petition filed on the alien’s behalf.<sup>2</sup>

By signing any immigration form, the petitioner attests to the truth of the claims of fact associated with that form. The Form I-360, for instance, includes this advisory statement: “I certify . . . under penalty of perjury under the laws of the United States of America, that this petition and the evidence submitted with it is all true and correct.”

The forms described above are conclusive proof that the petitioner has made contradictory, and therefore false, statements under penalty of perjury in the course of obtaining or attempting to obtain immigration benefits.

On March 5, 2008, in accordance with the regulation at 8 C.F.R. § 103.2(b)(16)(i), the AAO advised the petitioner of the AAO’s intent to enter a finding of fraud or misrepresentation of a material fact into the record, based on the contradictory claims regarding her residence, presence in the United States, and family status. The AAO observed that the petitioner, by signing Form I-360, had certified under penalty of perjury that “this petition and the evidence submitted with it is true and correct.” The AAO allowed the petitioner fifteen days to respond to the notice.

In response, counsel states that the petitioner’s “inaccuracies were neither willful nor material, and are not contained in the family history provided in the I-360.” A history of contradictory statements is indeed material when the matter currently under consideration relies heavily on personal statements with little or no contemporaneous documentary support. Having filed this petition on her own behalf, the alien’s credibility is not only material, but central and of paramount importance. The petitioner, by signing the Form I-360 and other forms, attested that her claims were “*all* true and correct,” with no exception or disclaimer for assertions that counsel may deem not to be “material.” By incorporating third-party witness letters into the record, the

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<sup>2</sup> Form I-130 Petition for Alien Relative, receipt number EAC 07 199 53220, filed by the alien’s spouse, Jerry D. Hollis, which is housed with this Form I-360 petition in the alien’s A-file record.

petitioner also assumed responsibility for the accuracy of the information of those letters. At the time she first submitted those letters, the petitioner offered no indication that the letters were inaccurate in any respect.

Section 204(b) of the Act, 8 U.S.C. § 1154(b), provides for the approval of immigrant petitions only upon a determination that “the facts stated in the petition are true.” False, contradictory, or unverifiable claims inherently prevent a finding that the petitioner’s claims are true. *See Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir. 1989); *Systronics Corp. v. I.N.S.*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C. 1988).

As for the observation that the petitioner’s false information about her family did not appear on Form I-360, the applicability of section 212(a)(6)(C)(i) of the Act is not limited to the present petition or appeal; it applies whenever an alien “seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act.” By its plain language, it applies to any and all attempts, past and present, by the petitioner to obtain immigration benefits, whether or not such attempts were successful.

Some documentary evidence accompanies the petitioner’s response to the AAO’s notice. The petitioner submits documents to establish that the Church of the Living God existed in 2001. A March 14, 2008 letter from Philadelphia Federal Credit Union states: “The Church Of The Living God opened an account with the Philadelphia Federal Credit Union on October 4, 2001.” The letter shows the church’s Baltimore Avenue address, even though the church left that address more than three years earlier, having purchased a property on South 61<sup>st</sup> Street in late 2004 as shown by bank documents and other materials in the record. The letter does not identify any of the church’s 2001 officials or employees.

A copy of an August 30, 2001 letter from the Internal Revenue Service (IRS) indicates that the Employer Identification Number now used by the petitioner’s church, [REDACTED], was assigned to the Church of the Living God Holy Ghost Intercessory Assembly. The petitioner’s church was subsequently incorporated in January 2003 under the similar but not identical name Church of the Living God Holy Ghost Intercessory Ministries. The IRS letter is evidence that the church existed in some form in 2001, but it does not establish that the petitioner was involved with the church at that time. We note that, while subsequent IRS documentation has been addressed in care of the petitioner, the 2001 letter was addressed in care of another individual, [REDACTED]. There appears to be no other mention of [REDACTED] in the record, even in brochures that detail the purported history of the church.

The petitioner submits a facsimile of a new letter from [REDACTED], who states that he should have stated that the petitioner had headed the church “for more than two and a half years.” [REDACTED] does not provide any documentary evidence to establish that this new figure should be considered any more reliable than his original, admittedly incorrect estimate of “four years.”

With respect to the letter from [REDACTED] of Mt. Calvary Temple, the petitioner does not provide a new statement from the bishop. Instead, the petitioner submits a letter from a new witness, [REDACTED], who asserts that [REDACTED]’s [*sic*] Church assisted [the petitioner] with stipend whenever she minister [*sic*] in their church.” [REDACTED] offers no evidence to support his version of events. This is not

to say that the AAO is convinced of the accuracy of [REDACTED]'s letter; the point is the conflicting details in the various accounts.

The petitioner submits other evidence, such as copies of bank documents and her daughter's birth certificate, but these documents do not establish that the petitioner has offered credible and consistent information throughout the course of this proceeding, nor do they show that the petitioner worked continuously in a full-time and compensated capacity as a religious worker during the two-year qualifying period.

The petitioner submits an undated personal statement which she calls an "affidavit," but there is no attestation showing that she was duly sworn by any competent authority. Nevertheless, because the petitioner had previously signed the Form I-360 petition and then added this new statement to the related record of proceeding, the petitioner's new statement is effectively made under penalty of perjury.

It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho* at 582, 591-92. The AAO advised the petitioner of this case law in its March 8, 2008 notice. Nevertheless, the petitioner offers only her own statement, unsupported by competent objective evidence, to address several of the discrepancies in the record. As we shall demonstrate, this new statement does not reconcile her earlier assertions and submissions. Rather, it further compromises the petitioner's credibility.

The AAO will begin its discussion of the petitioner's "affidavit" with the following highly illuminating excerpt. In its March 8, 2008 notice, the AAO advised the petitioner that the "Bill of Divorcement" contradicted some of the petitioner's claims about her marital status. Responding to this information, the petitioner states:

When I signed a form indicating on 09/05/2003 that I had a spouse and three children, that was in error, although I did not know that Tony had obtained a divorce at the time I prepared and sent in the form on Sept. 5, 2003. . . . [H]e did not inform me of the fact that he had decided to . . . obtain a divorce until well after he obtained the divorce, and it was certainly after I prepared and sent the 09/05/2003 application which you mention.

As noted above, on the September 2003 form, under "Marital Status," the petitioner had checked two boxes: "Single" and "Divorced" (while also identifying "[REDACTED]" as her current, rather than former, spouse). It is far from clear why the petitioner would identify herself as "Single" and "Divorced" if she believed herself to be married at the time. This, however, is not the most blatant contradiction of the petitioner's later statement.

The March 28, 2003 "Bill of Divorcement" in the record identifies the petitioner as the plaintiff, and indicates that she filed for divorce from [REDACTED] on grounds of "desertion." This documentation flies in the face of the petitioner's new claim that she did not learn of the divorce until long after it occurred. The petitioner's blatantly false statement, made under penalty of perjury, demolishes whatever may have remained of her credibility. In the face of this obvious and irreconcilable contradiction, the petitioner's unsupported claims are not entitled to any credence whatsoever.

The petitioner asserts that, when [REDACTED] stated that Mt. Calvary Temple provided the petitioner's "complete sustenance," he meant to say that the temple provided "help with my rent . . . , help on occasion with some food staples, and on one occasion a donation of clothing." The petitioner also asserts that the "establishment" of the Church of the Living God took place "over a period of years," and therefore Bishop [REDACTED] was "incorrect" when he stated that the temple's "support stopped only after [the petitioner] established her own ministry." When the petitioner first submitted [REDACTED]'s letter, the petitioner gave no indication that the letter contained such gross inaccuracies; that claim surfaced only after the petitioner was confronted with contradictions in the record.

The petitioner's place of residence is a material issue because the petitioner's compensation package has purportedly included housing. The petitioner's earliest place of residence in the United States, on [REDACTED] in Philadelphia, was not based on employment; she shared the residence with [REDACTED], who identified the petitioner as "my sister." The petitioner now states: "[REDACTED] is not my biological sister, but she used the word 'sister' figuratively. . . . I lived with [REDACTED] from the time I arrived in the U.S. until approximately one year later. **When I moved, I erred by not changing my address on my driver's license**" (emphasis in original).

By the above account, the petitioner left the [REDACTED] address around December 2001 (one year after her December 2000 arrival). The petitioner had previously submitted copies of identification documents issued by the State of Pennsylvania. An Identification Card, issued by the same authority that issues driver's licenses, was issued on March 7, 2002; a Driver's License was issued on February 19, 2003. Both cards show the [REDACTED] address. This indicates that the petitioner actively gave the [REDACTED] address to Pennsylvania authorities considerably later than one year after her 2000 arrival. It is clearly not the case that the petitioner simply failed to obtain updated documents; she actively obtained a new document with the [REDACTED] address as late as February 2003. It appears that, for a time in late 2002 and early 2003, the petitioner actively used both the Walton Street address and the Baltimore Street address adjacent to the church's location at that time.

With respect to the changing number of children claimed on various immigration forms, the petitioner states: "the adopted children I have mentioned . . . were not legally adopted. They were children I raised, orphans." This newly-disclosed lack of legal adoption did not prevent the petitioner from seeking immigration benefits on behalf of all seven children, even though she would have had no legal standing to do so. The act of seeking such benefits in this manner must be construed as an act of fraud in its own right.

The petitioner then states: "I do not know exactly why I would have recorded that I had three children when I have two biological children and five other children whom I raised." The petitioner speculates that she absentmindedly added the name of one of the "adopted" children because that child, unlike the others, shares her surname. With regard to the document that indicated the petitioner had no current spouse, no former spouse, and no children, the petitioner blames "the church member assisting me with the application" and states "stupidly, I did not review the application for accuracy. . . . I have certainly learned my lesson and will not make this serious error again." On the form in question, under "Signature of person preparing form," the petitioner wrote and signed her own name. The form itself, therefore, provides no evidence that any

anonymous “church member” prepared the document, and given the petitioner’s other statements, the AAO sees no reason to believe the petitioner’s explanation.

The petitioner, in her latest communication, essentially disavows responsibility for any inaccurate statement she made in the past, and she asserts that third-party statements which she had originally presented as accurate and reliable information are, in fact, riddled with errors of fact. Under the best of circumstances, these claims amount to a repudiation of her initial certification that the claims of fact contained within the petition were true and correct to the best of her knowledge; and the present petition falls well short of the best of circumstances. We cannot accept a narrative that is only conditionally true, subject to revision when contradictions are exposed.

By signing the Form I-360 and other forms under penalty of perjury, the petitioner undertook a solemn responsibility to ensure that the claims embodied therein were true to the best of her knowledge. If the petitioner submitted documents containing claims of fact without first ascertaining the truth of those claims, then the petitioner abrogated the terms under which she filed the petition. Furthermore, by attempting to distance herself from claims made above her own signature, the petitioner has in effect nullified the evidentiary weight of any and every document thus signed by her. The AAO cannot arbitrarily adopt the position that every document signed by the petitioner, that is favorable to her, can be trusted, while every document she signed that contains questionable or conflicting information is to be set aside as harmless error with no consequences for the outcome of the petition.

The petitioner claims: “although I have made mistakes in recounting my history clearly, accurately and consistently, I do not wish to mislead anyone.” This assertion fails to persuade us. The AAO will not entertain, even hypothetically, the notion that the petitioner forgot that she filed for divorce from Tony Bellel, rather than the other way around, or that the court that prepared the divorce documents repeatedly and consistently identified her as the plaintiff by mistake. The petitioner’s “affidavit” comes across not as a candid attempt to rectify inadvertent errors or omissions in the record, but as “damage control” in an effort to salvage one of the petitioner’s several, varied attempts to secure permanent resident status.

The AAO has duly warned the petitioner of its intent to make a finding of fraud. In response, the petitioner offered the audaciously false claim that she was unaware of divorce proceedings in September 2003, a claim overwhelmingly refuted by the Bill of Divorcement which proves that she herself instituted the divorce proceedings in March 2003. Thus, the petitioner’s rebuttal, itself, contains yet another willful, material misrepresentation.

Section 212(a)(6)(C) of the Act provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

By filing the instant petition and submitting the conflicting evidence described above, the petitioner has sought to procure a benefit under the Act through fraud and willful misrepresentation of a material fact. Because the petitioner has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that she submitted false information in support of the petition, we affirm our finding of fraud and willful misrepresentation. This finding of fraud and willful misrepresentation shall be considered in any future proceeding where admissibility is an issue.

The visa petition procedure is not the forum for determining substantive questions of admissibility under the immigration laws. *Matter of O*, 8 I&N Dec. 295 (BIA 1959). The AAO, therefore, shall not directly rule on the petitioner's admissibility in this proceeding. Nevertheless, the AAO is not constrained from making findings that could bear on future proceedings in which admissibility is at issue. The petitioner's latest submission reinforces, rather than overcomes, the AAO's determination to make a finding of willful misrepresentation of material facts.

Pursuant to the above discussion, the AAO finds that the petitioner has not met her burden of proof to establish, credibly, that she worked continuously as a pastor and church overseer throughout the two-year qualifying period. The claims put forth regarding the petitioner's past work are conflicting and unsupported, and the petitioner's efforts to shore up her own credibility and that of her witnesses have been, to say the least, unsuccessful.

The remaining issues concern the terms of employment and the prospective employer's ability to meet those terms. While the petitioner's credibility remains a significant issue in regard to these issues, the record contains objective evidence to establish that the church exists in some form.

8 C.F.R. § 204.5(m)(4) requires an authorized official of the religious organization to state how the alien will be solely carrying on the vocation of a minister (including any terms of payment for services or other remuneration). Regarding the organization's ability to meet those terms of payment, 8 C.F.R. § 204.5(g)(2) states, in pertinent part:

*Ability of prospective employer to pay wage.* Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage. The petitioner must demonstrate this ability at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be either in the form of copies of annual reports, federal tax returns, or audited financial statements.

Pursuant to the regulations, the prospective employer must establish this ability to pay from the petition's June 21, 2004 filing date onward.

The petitioner's initial submission did not include any information about the terms of payment or remuneration. In the June 2005 RFE, the director instructed the petitioner to specify the amount of the proffered salary, and to submit evidence showing that the church is able to pay that salary. The director

indicated that this evidence could take the form of “a current financial statement that either has been reviewed or audited by a Certified Public Accountant.”

In response, [REDACTED], President of the Board of Trustees of the Church of the Living God, indicated in a September 2005 affidavit that the church provides the petitioner “with living quarters above the Church, for which we maintain the utilities,” as well as “a stipend of \$800.00 per month for her living expenses.” The petitioner did not submit evidence of past stipend payments.

The petitioner did not submit a financial statement. Instead, the petitioner submitted copies of two bank statements. The first statement, from United Bank of Philadelphia, shows a balance of \$12,605.49 as of December 31, 2004. The second statement, from PNC Bank, shows a balance of \$631.89 as of May 31, 2005. The petitioner also submits a statement from United Bank of Philadelphia, regarding an outstanding mortgage “with balloon at maturity.” The first payment on the mortgage was to be due on the first day of the first month after the closing date. The loan officially originated on December 3, 2004, which appears to indicate that the December 2004 bank statement did not include a payment on the mortgage. As of July 18, 2005, the outstanding principal balance was \$165,118.64, which does not include 7.75% interest on that loan. Thus, the church’s financial obligations include monthly mortgage payments of nearly \$1,600 until late 2009, to be followed by a balloon payment for the remainder of the principal. The materials submitted in response to the RFE do not meet the required evidentiary standards, and even then, the documents do not facially demonstrate the church’s financial ability to support the petitioner.

We also note, however, that the mortgage covers three contiguous properties, including the property listed as the petitioner’s most recent address of record. This supports the assertion that the petitioner provides housing for the petitioner. Before the church moved to its current address, it was, again, at an address adjacent to the petitioner’s residence. In context, this supports the inference that the church housed the petitioner at the time of filing. It is difficult to determine exactly when the church began to provide this housing, given the petitioner’s inconsistent documentation in this regard.

The director denied the petition on February 6, 2006, stating: “As no evidence was provided to indicate that the beneficiary has been paid or remunerated in the proffered position . . . the record does not satisfactorily establish that the beneficiary has been given a valid job offer.” The director added: “The record does not establish that the religious organization had the ability to pay the offered wage at the time of filing.”

On appeal, counsel’s two-page response to the denial notice does not address these findings except to state:

The Church of the Living God is a thriving congregation. . . . Church officials who have supported her are reputable established people, and their affidavits and letters are meaningful and should not be dismissed out of hand.

Further, financial information has been submitted which supports that the Church was and is a real entity which [the petitioner] has leaded [sic] since its inception.

Letters and affidavits are not first-hand documentary evidence of financial transactions. The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Furthermore, the church's existence as "a real entity" in no way compels the conclusion that the church is able to support the petitioner fully, such that the petitioner can work solely as a minister, without the need for supplemental employment.

The petitioner submits copies of earnings statements that the church issued to the petitioner. The petitioner's gross salary (before taxes) is \$369.23 for each two-week pay period, which is equivalent to the proffered wage of \$800 per month. The earliest statement, however, covers the pay period from October 29, 2005 to November 11, 2005. The amounts marked "This Period" and "Year-To-Date" are the same. The statement for the pay period from December 31, 2005 to January 13, 2006 also shows matching amounts under "This Period" and "Year-To-Date," which shows that the "Year-To-Date" amount is calculated by calendar years beginning in January, rather than fiscal years beginning in November. Therefore, the evidence shows that the church did not begin paying the beneficiary until about 16 months after the petition's filing date, by which time the director had already raised questions regarding the petitioner's compensation by the church. The church paid the beneficiary only \$1,476.92 in 2005. The statements may support the finding that the church was able to pay the petitioner in late 2005 and early 2006, but they do nothing to show that the church could, or did, pay the petitioner in June 2004.

Given the credibility issues in this proceeding, the AAO finds it highly significant that the church did not begin generating evidence of the petitioner's compensation until the director asked for such evidence.

The evidence is somewhat stronger that the petitioner has resided on church property since sometime between March and October of 2002, but this does not demonstrate that the church was fully responsible for the petitioner's material support. The record contains numerous significant gaps regarding the petitioner's finances, and given the petitioner's overall credibility, there is no reason to give the petitioner the benefit of the doubt with respect to the ambiguous or missing evidence.

The petitioner has not established that the Church of the Living God has consistently been able to compensate the petitioner at the rate described in the record, and the circumstances under which the church ultimately began providing that compensation does not inspire confidence in the existence of a *bona fide* job offer incorporating those terms.

The petitioner is clearly involved with the Church of the Living God to some extent, but it is equally clear that the petitioner has been less than candid in her statements. The petitioner has attempted to explain the discrepancies in the record by stating that she submitted error-ridden documents and forms that she signed without reading carefully. This explanation would not in any case inspire confidence in the reliability of the record evidence. To compound the problem, when the AAO questioned her credibility, the petitioner offered demonstrably false claims in her defense.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit

sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

The AAO finds that the petitioner knowingly made false statements in an effort to mislead Citizenship and Immigration Services (CIS) and the AAO on an element material to her eligibility for a benefit sought under the immigration laws of the United States. See 18 U.S.C. §§ 1001, 1546. The AAO will enter a finding of willful misrepresentation of a material fact.

**ORDER:** The appeal is dismissed.

**FURTHER ORDER:** The AAO finds that the petitioner knowingly provided false statements in an effort to mislead CIS and the AAO on an element material to her eligibility for a benefit sought under the immigration laws of the United States.